

**BEFORE THE
PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2011-____-C

IN RE:

Application of SC Lifeline, Inc. d/b/a
ClearTalk for Designation as an
Eligible Telecommunications Carrier

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APPLICATION

**APPLICATION OF SC LIFELINE, INC. D/B/A CLEARTALK FOR LIMITED
DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER IN
THE STATE OF SOUTH CAROLINA**

SC Lifeline, Inc., d/b/a ClearTalk (“ClearTalk”), respectfully submits this Petition for Limited Designation as an Eligible Telecommunications Carrier (“ETC”) in the State of South Carolina, pursuant to Section 214(e)(2) of the Communications Act of 1934 (the “Act”), S.C. Code Ann. § 58-11-100, and S.C. Code Ann. Regs. 103-690. ClearTalk seeks ETC designation solely for the purpose of offering Lifeline services. ClearTalk is a facilities-based wireless service provider that offers mobile voice and broadband service. As shown herein, ClearTalk meets each of the statutory and regulatory requirements for ETC designation except for the definition of “service area” contained in 47 U.S.C. §214(e)(5), from which it has applied for forbearance from the Federal Communications Commission (“FCC”).¹

Designating ClearTalk as a Lifeline-only ETC would serve the public interest generally and benefit low income consumers in particular. Such a designation would increase consumer choice of both carriers and service plans in the requested service areas. ClearTalk’s service plans

¹ By statute, a State Commission may not continue to apply or enforce any provision of the Act that the FCC has determined to forbear from applying. 47 U.S.C. § 160(e).

are of particular value to low income consumers, because they offer unlimited minutes, fixed low monthly charges, and no credit check, deposit, or long-term commitment. Therefore, ClearTalk provides a vital service to South Carolina consumers who might not otherwise be able to afford or qualify for service provided by other wireless carriers, thereby encouraging participation in the Lifeline program. Accordingly, ClearTalk respectfully requests that the Public Service Commission of South Carolina (“Commission”) grant this Petition expeditiously, so that low income consumers in the requested service areas can receive these benefits without delay.

I. BACKGROUND

A. ClearTalk

ClearTalk provides wireless voice service on a short-term, low-cost basis. It provides this service over its U.S.-developed, cutting-edge 3G network, which uses a third less power than traditional installations and delivers enhanced signal strength and coverage. Through its innovative network system, ClearTalk is able to increase reliability as well as capacity to those who need it most. This technology is adaptable and easily upgraded as the industry develops. Furthermore, ClearTalk’s basic voice service offers unlimited local anytime minutes, no credit check, no deposit, and no annual contract.

The key advantages to ClearTalk’s network technology are: 1) user experience is the same for all users, as compared to individual networks with different requirements patched together; 2) last mile service technology is mobile and middle mile service is based on a technology that can reach out to last mile users almost anywhere, anytime; 3) installations have small, split architecture that is highly energy efficient; and 4) base stations use “software-defined radio” that allows different air interfaces to work through a single radio. These radios are available to extend the networks of the large carriers into these rural areas and are also ready for the next generation 4G standards.

ClearTalk has been building mobile networks in underserved areas of the country since 1999. In the past ten years, ClearTalk has built wireless networks in 17 different markets and constructed or acquired over 500 telecommunication sites. Its markets include or have included Colorado (Grand Junction), Idaho (Pocatello, Twin Falls, Idaho Falls), Tennessee (Jackson, Dyersburg), Alabama (Florence), Arizona (Yuma), California (El Centro), and Florida (Jacksonville). In just the last four years, ClearTalk has built over 300 communication sites and is today one of the largest tower owners in the US. Its network has expanded not only through the growth of its own network but through roaming agreements with larger carriers. In the future, ClearTalk will continue to identify and reach out to unserved and underserved markets, where affordable service can provide much-needed voice options for consumers.

B. Scope of the Application and Areas in Which Designation is Sought

ClearTalk seeks ETC status in order to offer Lifeline support to qualifying customers. It will not draw from the federal Universal Service Fund (“USF”) High Cost program. ClearTalk requests ETC designation for, and will provide Lifeline service in, all geographic areas for which it is authorized; namely, Saluda, Newberry, Fairfield, Lexington, Kershaw, Lee, Sumter, Calhoun, Orangeburg, Clarendon, Richland, Oconee, Greenville, Anderson, Cherokee, Union, Laurens, Abbeville, McCormick, Spartanburg, Pickens, and Greenwood counties.² This authorized service area includes the non-rural telephone company wire centers listed in **Exhibit C** hereto.

² ClearTalk is authorized to provide service in the listed counties under callsigns WQGD591 and WQGD600, licensed to its affiliate WGH Communications, Inc.

C. Statutory and State Standards for ETC Designation

A State commission shall, upon its own motion or upon request, designate a common carrier that meets certain statutory requirements.³ These requirements are: (1) offering all of the USF-supported services, (2) offering these services using its own facilities or a combination of its own facilities and resale of another carrier's services, and (3) advertising the availability of such services and the charges therefor using media of general distribution. In addition to these statutory requirements (and incorporating (2) and (3)), S.C. Code Ann. Regs. 103-690 provides that an applicant for ETC designation in South Carolina must:

- 1) Commit to provide service through its proposed designated service area to all customers making a reasonable request for service;
- 2) Demonstrate its ability to remain functional in emergency situations;
- 3) Demonstrate that it will satisfy applicable consumer protection and service quality standards;
- 4) Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation;
- 5) Certify by affidavit signed by an officer of the company that the carrier acknowledges that the Federal Communications Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area;

³ 47 U.S.C. § 214(e)(2). Section 254(e) of the Communications Act of 1934 (the "Act") further requires that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal support." 47 U.S.C. § 254(e). As a CMRS carrier, ClearTalk is treated as a common carrier for regulatory purposes. *See* 47 U.S.C. § 332(c)(1)(A); *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, Second Report and Order, 9 FCC Rcd 1411, ¶¶ 37, 102 (1994).

- 6) Certify by affidavit signed by an officer of the company that it does offer or will offer the services that are supported by the federal universal service support mechanisms by using its own facilities or a combination of its own facilities and resale of another carrier's services; and
- 7) Certify by affidavit signed by an officer of the company that it does or will advertise in a media of general distribution the availability of such services, including lifeline services and the applicable charges.

In addition, in the case of an area served by a rural telephone company, the Commission must determine that ETC designation is in the public interest, considering, *inter alia*, the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering. ClearTalk does not seek ETC designation in any area served by a rural telephone company.

ClearTalk satisfies each applicable requirement, as set out individually below.

II. CLEARTALK SATISFIES THE STATUTORY AND REGULATORY REQUIREMENTS FOR DESIGNATION AS AN ETC

ClearTalk satisfies each of the statutory and regulatory requirements set forth in the Act and the Commission's rules as follows:

A. ClearTalk Will Offer All Services Designated for Support.

Section 54.101 of the FCC's rules, as incorporated by S.C. Code Ann. Regs. 103-690, sets out nine services that must be provided by recipients of USF funding. ClearTalk provides each of these services and will offer the supported services throughout the areas in which it is designated as an ETC.

Voice grade access. ClearTalk provides "voice grade access to the public switched network," as required by Section 54.101(a)(1) of the FCC's rules. Specifically, it provides its

customers the ability to “transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating that there is an incoming call” at a bandwidth of a minimum of 300 to 3,000 Hertz.⁴

Local usage. ClearTalk provides “local usage,” defined in Section 54.101(a)(2) to mean “an amount of minutes of use of exchange service . . . provided free of charge to end users.”⁵ ClearTalk offers free unlimited minutes of local exchange service as part of all its service plans.

Dual tone multi-frequency signaling or its functional equivalent. Dual tone multi-frequency (“DTMF”) is a method of facilitating the rapid transmission of call set-up and call detail information, as defined in Section 54.101(a)(3).⁶ ClearTalk provides DTMF-compatible service.

Single-party service or its functional equivalent. Under Section 54.101(a)(4), with respect to cellular service, “single party service” means a dedicated message path for the duration of a user’s transmission.⁷ ClearTalk meets this requirement by offering a dedicated transmission path for the duration of each of its customer’s calls.

Access to emergency services. “Access to emergency services” includes access to services, such 911 and enhanced 911 (“E911”), provided by local governments or other public safety organizations, as defined in Section 54.101(a)(5).⁸ ClearTalk provides 911 service to all of its voice customers and will provide upon request by an affected PSAP all FCC-required E911 access, including providing automatic numbering information (“ANI”) and automatic location

⁴ 47 C.F.R. § 54.101(a)(1).

⁵ 47 C.F.R. § 54.101(a)(2).

⁶ 47 C.F.R. § 54.101(a)(3).

⁷ 47 C.F.R. § 54.101(a)(4).

⁸ 47 C.F.R. § 54.101(a)(5).

information (“ALI”) to public service access points (“PSAPs”) in its service areas that are capable of receiving such information.

Access to operator services. “Access to operator services” as defined by Section 54.101(a)(6) means access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call.⁹ ClearTalk makes operator services available to all of its customers.

Access to interexchange service. With respect to wireless carriers, Section 54.101(a)(7) defines “access to interexchange service” to mean the functional equivalent to use of the loop, as well as that portion of the switch that is paid for by the end user, necessary to access an interexchange, or long-distance, carrier’s network.¹⁰ ClearTalk meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through its network.

Directory assistance. Under Section 54.101(a)(8), “access to directory assistance” means access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings.¹¹ ClearTalk meets this requirement by providing access to directory assistance to customers dialing “411” from their wireless handsets.

Toll limitation. Under Sections 54.101(a)(9) and 54.400(d), “toll limitation” includes the offering of either toll blocking or toll control, for telecommunications carriers that are incapable of providing both services, or both if possible.¹² “Toll blocking” allows consumers to block outgoing toll calls from their phone, and “toll control” allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per

⁹ 47 C.F.R. § 54.101(a)(6).

¹⁰ 47 C.F.R. § 54.101(a)(7).

¹¹ 47 C.F.R. § 54.101(a)(8).

¹² 47 C.F.R. § 54.101(a)(9), 54.400(d).

billing cycle. A billing plan that limits toll charges functions, by its nature, as a toll limitation feature.¹³ Similarly, ClearTalk's single monthly charge for unlimited minutes functions as a toll limitation feature by enabling customers to make unlimited calls under a single flat fee, eliminating any concerns that customers or the Commission may have about usage charges or long-term contracts. In fact, ClearTalk's plan is better for customers than prepaid plans, because customers are not blocked from making calls due to the number of minutes they have used.

B. ClearTalk commits to provide service through its proposed designated service area to all customers making a reasonable request for service.

ClearTalk certifies that it will (1) provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and (2) provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by: (a) modifying or replacing the requesting customer's equipment; (b) deploying a roof-mounted antenna or other equipment; (c) adjusting the nearest cell tower; (d) adjusting network or customer facilities; (e) reselling services from another carrier's facilities to provide service; or (f) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.

ClearTalk herewith submits, in **Exhibit A**, a two-year plan that describes its plans for advertising and outreach programs for identifying, qualifying, and enrolling eligible participants in the Lifeline program.

C. ClearTalk has the ability to remain functional in emergency situations.

¹³ See *TracFone Wireless, Inc.*, Order, 24 FCC Rcd 4180, 4186 n.30 (2008) ("We find that the prepaid nature of TracFone's service offering works as an effective toll control.") ("*TracFone Order*").

ClearTalk is committed to maintaining essential telecommunications service in times of emergency. To this end, ClearTalk maintains generator backup for the switch and battery backup for its cellular towers. It also has fail-over trunks that are able to reroute traffic around damaged facilities.

D. ClearTalk will satisfy applicable consumer protection and service quality standards.

ClearTalk will comply with all applicable state and federal consumer protection and service quality standards. ClearTalk has adopted the CTIA Consumer Code for Wireless Service, which satisfies this requirement.

E. ClearTalk offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation

ClearTalk's current local usage plans are comparable to those offered by incumbent LECs. ClearTalk offers unlimited free local calling throughout the ILEC's local calling area. In addition, ClearTalk's plans offer many other benefits, such as mobile service, caller ID, unlimited domestic text and picture messaging, extended free roaming areas, call waiting, and voicemail.

F. ClearTalk acknowledges that the Federal Communications Commission may require it to provide equal access to long distance carriers

ClearTalk acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that all other ETCs in one of its designated service area relinquish their designations, pursuant to section 214(e)(4) of the Act. See **Exhibit B** for certification by affidavit signed by an officer of the company.

G. ClearTalk offers or will offer services using its own facilities or a combination of its own facilities and resale of another carrier's services.

ClearTalk will offer the supported services using its own network infrastructure in South Carolina, including the same equipment and facilities that it uses to serve non-Lifeline customers. See **Exhibit B** for certification by affidavit signed by an officer of the company.

H. ClearTalk will advertise in a media of general distribution the availability of and charges for Lifeline services.

ClearTalk will advertise the availability and charges of the supported services using media of general distribution, in a manner designed to inform the general public within its designated service areas. Specifically, it will employ a combination of media channels, such as broadcast and paper media, outdoor advertising, direct marketing, and online advertising. A detailed advertising plan is included at **Exhibit A** and certification by affidavit at **Exhibit B**.

I. ETC Designation of ClearTalk Will Promote the Public Interest.

Designation of ClearTalk as an ETC serves the public interest, as it would provide an option for those consumers who would otherwise be left behind by other carriers or who lack choice in carriers where they live. These consumers would receive the benefits of an easy-to-budget fixed monthly payment, high quality and reliable service, connectivity where landline services are not available, and of course mobile service. Low income consumers in particular will benefit from ClearTalk's service plans, which provide unlimited voice service at a fixed low rate without the need for a credit check, deposit, or long-term contract—requirements that often prevent consumers from qualifying for service from other providers.

ClearTalk's plans not only enable consumers to initially receive service for which they might not otherwise qualify, but also provide the ongoing benefit of being able to plan and budget according to a fixed monthly fee with no fear of high over-limit charges or early termination fees. Furthermore, ClearTalk provides the option of mobile, on-the-person service,

which provides safety and convenience for all users and is of particular importance to certain groups, such as the elderly and self-employed. Finally, ClearTalk offers low income customers the same high quality and reliable service that it offers across the board on its innovative 3G network. As a result of this innovative business model, a large percentage of ClearTalk's customers have come to rely on their cell phone for affordable flat-rate broadband Internet service as well as their primary voice connection. Designating ClearTalk as an ETC would improve its ability to reach these Americans and continue to expand its network of affordable, quality service into areas that need it most.

For all these reasons, designation of ClearTalk as an ETC for its authorized service areas in South Carolina would unquestionably be in the public interest.

III. CONCLUSION

As ClearTalk has shown herein, grant of this Petition for Lifeline-only ETC designation is consistent with the Act, Commission rules, and the public interest. Accordingly, ClearTalk requests that the Commission grant this Petition expeditiously, and grant such other relief as is just and proper.

Respectfully submitted,

s/ John J. Pringle, Jr.

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